



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

February 16, 2024

BY ECF

The Honorable Lorna G. Schofield
United States District Court
Southern District of New York
500 Pearl Street
New York, New York 10007

Re: United States v. Whitehead, S1 22 Cr. 692 (LGS)

Dear Judge Schofield:

The Government writes to respectfully request the Court enter a briefing and hearing schedule with respect to a forthcoming motion to quash a trial subpoena.

By way of background, on February 15, 2024, the Government issued a trial subpoena to Eric Lach, a staff writer for *The New Yorker*, seeking trial testimony necessary to authenticate on-the-record statements made by the defendant to Mr. Lach that were subsequently quoted in the January 2023 article "The Mayor and the Con Man."¹ This subpoena was served approximately two weeks after the Government first contacted the *The New Yorker* to discuss calling Mr. Lach as a trial witness, and was informed by counsel for the magazine that Mr. Lach would not testify voluntarily and would move to quash any subpoena to compel his testimony. The Government promptly sought internal approval to subpoena Mr. Lach and formally issued the subpoena on the same day it was authorized to do so.

Accordingly, the Government and counsel for *The New Yorker* jointly propose the following schedule: (1) the motion to quash is to be filed by 12 p.m. on Wednesday, February 21,

¹ See Eric Lach, "The Mayor and the Con Man," *The New Yorker* (Jan. 14, 2023), available at <https://www.newyorker.com/news/our-local-correspondents/how-eric-adams-started-mentoring-a-con-man> (last visited Feb. 15, 2024).

2024; (2) oppositions to be filed by 5 p.m. on Friday, February 23, 2024; (3) replies to be filed by 9 a.m. on Monday, February 26, 2024; and (4) argument to be scheduled at a time on February 26, 2024, prior to opening statements.

Respectfully submitted,

DAMIAN WILLIAMS
United States Attorney

By: s/Jessica Greenwood

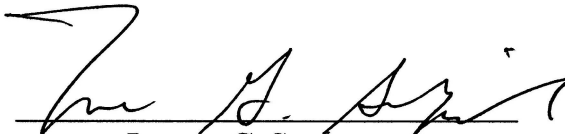
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Application **GRANTED** in part and **DENIED** in part. The anticipated motion to quash shall be briefed as follows:

- Counsel for the New Yorker shall file a letter brief moving to quash by **February 19, 2024**, not to exceed 6 pages single spaced;
- The Government shall file its letter brief in opposition by **February 21, 2024**, not to exceed 6 pages single spaced;
- Counsel for the New Yorker shall file its letter brief in reply by **5:00 P.M. on February 22, 2024**, not to exceed 3 pages single spaced.

The Government shall email a copy of this Order to Counsel for the New Yorker.

Dated: February 16, 2024
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE